

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION

EDMOND McCLINTON

PETITIONER

vs.

Civil Case No. 5:04CV00350 HLJ

LARRY NORRIS, Director,
Arkansas Department of Correction

RESPONDENT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Court Judge J. Leon Holmes. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than eleven (11) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a hearing for this purpose before the District Judge, you must, at the same time that you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence proffered at the hearing before the District Judge (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The detail of any testimony desired to be introduced at the hearing before the District Judge in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced at the hearing before the District Judge.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

Mail your objections and "Statement of Necessity" to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite 402
Little Rock, AR 72201-3325

DISPOSITION

Petitioner filed this original petition under 28 U.S.C. § 2254 seeking relief on the ground that the Department of Correction was not computing his time correctly. The District Court dismissed the case, as a successive petition to McClinton v. Norris, No. 2:02CV00126. Petitioner has now filed a Motion for Relief From Judgment & Order in this case.

This court is submitting on this date a recommended disposition in case NO. 2:02CV00126, directing the Clerk of the Court to forward to Petitioner the appropriate forms for filing a petition under 28 U.S.C. § 2254, with instructions for filing a new

case, since Petitioner apparently contends he has exhausted state remedies. The Motion or Relief from Judgment (DE #16) in this case is denied.

SO ORDERED this 30th day of September, 2005.

Henry L. Jones, Jr.

United States Magistrate Judge